

Emergency Order Notice

STATE OF WEST VIRGINIA

OFFICE OF THE INSURANCE COMMISSIONER

JANE L. CLINE, COMMISSIONER

04-EO-01

IN THE MATTER OF: Proclamations of State of Emergency by Governor Bob Wise, dated May 28, 2004 and June 1, 2004

EMERGENCY ORDER

NOW COMES JANE L. CLINE, Insurance Commissioner for the State of West Virginia, by virtue of the authority vested in her pursuant to West Virginia Code Section 33-2-10a, who does FIND and DECLARE as follows:

WHEREAS, severe storms beginning May 27, 2004 produced heavy sustained rains, strong winds and flash-flooding in Braxton, Gilmer, Jackson, Kanawha, Putnam, Raleigh and Roane counties, and continuing storms resulted in flooding in Logan, Mingo and Wyoming counties on May 30 and 31, 2004. These counties suffered from the effects of floods during the period of May 27-31, 2004; and

WHEREAS, the affected counties include: Braxton, Gilmer, Jackson, Kanawha, Putnam, Raleigh, Roane, Logan, Mingo and Wyoming counties; and

WHEREAS, on May 28, 2004, Governor Bob Wise declared that a State of Emergency exists in Braxton, Gilmer, Jackson, Kanawha, Putnam, Raleigh and Roane counties; and

WHEREAS, on June 1, 2004, Governor Bob Wise declared that a State of Emergency exists in Logan, Mingo and Wyoming counties; and

WHEREAS, it is the opinion of the Commissioner that the heavy sustained rains and flooding are reasonably likely to produce a volume of claims that significantly exceeds the number of claims normally arising in Braxton, Gilmer, Jackson, Kanawha, Putnam, Raleigh, Roane, Logan, Mingo and Wyoming counties of West Virginia:

IT IS THEREFORE DECLARED that an insurance emergency exists in Braxton, Gilmer, Jackson, Kanawha, Putnam, Raleigh, Roane, Logan, Mingo and Wyoming counties of West Virginia.

ACCORDINGLY, IT IS HEREBY ORDERED that normal time frames for claim handling and settlement as set forth in West Virginia Code of State Rules Title 114, Series 14, Section 5 and subsections 6.1, 6.5, 7.3.c, and 7.5 are suspended in Braxton, Gilmer, Jackson, Kanawha, Putnam, Raleigh, Roane, Logan, Mingo and Wyoming counties for claims arising out of the May 27-31, 2004 heavy sustained rains and flooding and only for those claims.

IT IS FURTHER ORDERED that the following rules shall replace the suspended sections of West Virginia Code of State Rules Title 114, Series 14 for claims in such counties:

114-14-5.1. Acknowledgment of notices of claims. -- Every insurer, upon receiving notification of a claim shall, within thirty (30) working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgment is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer.

114-14-5.2. Answer of inquiries from insurance department. -- Every insurer, upon receipt of any inquiry from the Insurance Department respecting a claim shall, within thirty (30) working days of receipt of such inquiry, furnish the department with a response to the inquiry.

114-14-5.3. Replies to other pertinent communications. -- A reply shall be made within thirty (30) working days to all other pertinent communications from a claimant which reasonably suggest that a response is expected.

114-14-5.4. Provisions of assistance to first party claimants. -- Every insurer, upon receiving notification of a claim, shall promptly provide necessary claim forms, instructions, and reasonable assistance so that first party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this paragraph within thirty (30) working days of notification of a claim shall constitute compliance with Subsection 5.1 of this section.

114-14-6.1. Investigation of claims. -- Every insurer shall establish procedures to commence an investigation of any claim filed by a claimant, or by a claimant's authorized representative, within thirty (30) working days of receipt of notice of claim. Every insurer shall provide to every first party claimant, or the claimant's authorized representative, a notification of all items, statements and forms, if any, which the insurer reasonably believes will be required of the claimant, within thirty (30) working days of receiving notice of the claim. A claim filed with an agent of an insurer shall be deemed to have been filed with the insurer unless, consistent with law or contract, such agent notifies the person filing the claim that the agent is not authorized to receive notices of claims.

114-14-6.5. Notice of necessary delay in investigating claims. -- If the insurer needs more time to determine whether a first party claim should be accepted or denied, it shall so notify the first party claimant in writing within thirty (30) working days after receipt of the proofs of loss. If the investigation remains incomplete, the insurer shall send to such claimant within thirty (30) calendar days from the date of the initial notification and every thirty (30) calendar days thereafter, a letter setting forth the reason additional time is needed for investigation. Where there is a reasonable basis supported by specific information available for review by the Commissioner that such claimant has fraudulently caused or contributed to the loss by arson, the insurer is relieved from the requirements of this subsection: Provided, however, that the claimant shall be notified of the acceptance or denial of the claim within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.

114-14-7.3.c If the insurer intends to exercise its rights to inspect damages prior to repair, it shall have thirty (30) working days from the date of receipt of notice of loss to inspect the insured's damaged motor vehicle at a place and time reasonably convenient to the insured. In addition, negotiations shall commence and a good faith offer of settlement shall be made within the aforesaid thirty (30) day period.

114-14-7.5. Unreasonable delay. -- If any element of a physical damage claim remains unresolved more than thirty (30) working days from the date of receipt of proofs of loss by the insurer, the insurer shall provide the insured with a written explanation of the specific reasons for the delay in the claim settlement unless reasonable grounds exist to suspect fraud or arson. An updated letter of explanation shall be sent every thirty (30) calendar days thereafter until all elements of the claim are either honored or rejected.

IT IS FURTHER ORDERED that this Emergency Order shall remain in effect for such claims reported through and including June 19, 2004, unless extended by **JANE L. CLINE**, Insurance Commissioner for the State of West Virginia.

ORDERED this 3rd day of June, 2004.